

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ARY Jewelers, LLC.,)
Plaintiff,)
v.)
IBJTC Business Credit Corp. and)
David Molinario,)
Defendants.)

CIVIL ACTION NO. 04:CV-10281 EFH

FILED
CLERKS OFFICE
2005 MAR 11 P 12:03
U.S. DISTRICT COURT
DISTRICT OF MASS

ASSENTED TO MOTION TO EXTEND THE TIME FOR FACT DISCOVERY

TO THE UNITED STATES DISTRICT COURT:

Plaintiff ARY Jewelers, LLC ("Plaintiff") files this Assented to Motion to Extend the Time for Fact Discovery and in support thereof would respectfully show the Court the following:

1. On May 4, 2004, the Court approved the parties' joint statement pursuant to Local Rule 16.1(D), which set March 14, 2005 as the deadline for completing fact discovery. The Rule 16.1(D) statement also set deadlines for expert discovery and for the filing of summary judgment motions. This Motion is being filed before the fact discovery deadline. Due to circumstances, set forth more fully below, Plaintiff requests an enlargement of the deadline for fact discovery to June 15, 2005 and that all other deadlines similarly be extended by 90 days. Defendants have assented to these requests.
2. Defendants timely noticed the Rule 30(b)(6) deposition of the Plaintiff's corporate representative for March 9, 2005. Mr. Haji Razzak will appear at the deposition as Plaintiff's corporate representative. Mr. Razzak is convalescing from a recent hospitalization in Dubai and is



unable to travel long distances and be in cold climates at this time, as would be required for a trip to Boston or New York for the deposition. He will be able to travel to the United States in May and the parties have agreed to take his deposition then.

3. Additionally, because other depositions of fact witnesses remain to be taken, in the interest of conserving resources, the parties agreed to take these additional depositions at the time Mr. Razzak will be in the United States.

4. The parties have agreed to the following conditions with respect to enlarging the fact discovery deadline:

- a. Plaintiff may seek to take the depositions of Brian Kennedy, Frank O'Connor, and Tom Morgan, and to continue the deposition of David Molinario, but Plaintiff shall seek no other fact discovery of any kind. If Mr. Molinario's deposition is continued, Plaintiff's questioning shall be limited to 40 minutes, pursuant to Fed. R. Civ. P. 30(d)(2);
- b. Prior to taking any of the depositions set forth in paragraph 1 above, Plaintiff shall produce Mr. Razzak for a Rule 30(b)(6) deposition in New York City or Boston and, in connection with the deposition, shall procure a mutually acceptable certified translator at Plaintiff's expense;
- c. Plaintiff shall serve its answers to Defendants' outstanding Requests for Admissions, dated February 16, 2005, by March 21, 2005;
- d. Defendants shall not be precluded from seeking additional fact discovery consistent with the extended cutoff date consented to herein; and
- e. Other than the agreements set forth herein, neither Plaintiff nor Defendants shall be

precluded from seeking to enforce any rights and/or remedies pursuant to the Federal Rules of Civil Procedure governing discovery and/or discovery disputes.

5. Rule 6(b) of the Federal Rules of Civil Procedure allows the Court to enlarge the time for conducting fact discovery. The interests of justice and judicial economy would be served by enlarging the fact discovery deadline. Thus, Plaintiff requests that the deadline for fact discovery be enlarged from March 14, 2005 to June 15, 2005, and that all other deadlines in the parties' Rule 16.1(D) statement similarly be extended by 90 days. As stated above, Defendants assented to these requests.

WHEREFORE, Plaintiff and Defendants ask that this Motion be granted.

Respectfully submitted,

THE CARRIGAN LAW FIRM, L.L.P.

By: Stephen P. Carrigan
STEPHEN P. CARRIGAN *w/permission*
Federal I.D. No. 6112
Texas State Bar No. 03877000 *by G.L.B.*
1331 Lamar, Suite 1550
Houston, Texas 77010
(713) 739-0810 (telephone)
(713) 739-0821 (telefax)
Attorney-in-Charge for Plaintiff

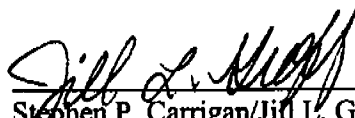
OF COUNSEL:

THE CARRIGAN LAW FIRM, L.L.P.

Jill L. Groff
State Bar No. 12057400
Fed ID No. 11314
1331 Lamar, Suite 1550
Houston, Texas 77010
Telephone: (713) 654-8100
Facsimile: (713) 752-2199
Of Counsel for Plaintiff

CERTIFICATE OF CONFERENCE

Counsel for Plaintiff and Defendants have conferred and each agrees with the relief requested in the foregoing motion.

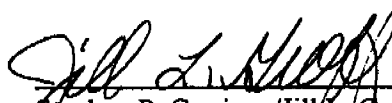


Stephen P. Carrigan/Jill L. Groff

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing instrument was forwarded as indicated below by certified mail, facsimile and/or hand delivery, return receipt requested in accordance with the Federal Rules of Civil Procedure on this 12th day of March, 2005.

Robert S. Fischler
ROPES & GRAY, L.L.P.
45 Rockefeller Plaza
New York, NY 10111
Tel: (212)841-0444



Stephen P. Carrigan/Jill L. Groff